

MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m. by Chairperson Williams, followed by the Pledge of Allegiance.

ROLL CALL

Present: COMMISSIONERS Bennett, Bogue, Caveglia, Fish, Halliday
CHAIRPERSON Williams
Absent: COMMISSIONER Zermeno

Staff Members Present: Anderly, Bauman, Borger, Camire, Chevalier, Hoover,
Looney

General Public Present: Approximately 12

PUBLIC COMMENT - None made

AGENDA

1. 1999/2000 - 2003/2004 FIVE-YEAR CAPITAL IMPROVEMENT PROGRAM -
Determination of General Plan Consistency
2. Use Permit No. 99-160-04 and Variance No.99-180-03 and Referral of a Decision by the Director of Community and Economic Development/Planning Director to Refuse Endorsement of On-Sale of Alcoholic Beverages at a Bona Fide Restaurant and Off-Sale of Alcoholic Beverages at a Market. Endorsement is required by the State Department of Alcoholic Beverages Control - Jorge L. Gonzalez for El Tapatio Carniceria and Taqueria (Applicant), Dorothy Levin and Arthur Zemel Trustees et. al. (Owners) - Request off-sale of beer and wine at a 4,029-square-foot market, and a variance to sell off-sale beer and wine adjacent to another establishment that sells alcoholic beverages (500-foot separation required) and a request for the City to determine that public convenience or necessity would be served by selling on- and off-sales of alcoholic beverages in an area determined to be over-concentrated with such establishments. *The project location is 603 "A" Street, on the Southeast corner of "A" street and Grand Street in the Central City Zoning District- Commercial Subdistrict (CC-C).*

PUBLIC HEARINGS

1. 1999/2000 - 2003/2004 FIVE-YEAR CAPITAL IMPROVEMENT PROGRAM -
Determination of General Plan Consistency

Public Works Deputy Director/Engineering Bauman highlighted the City Manager's letter to Council noting the improved economy. This provides the ability to earmark certain general fund dollars to accomplish critically needed projects that have been put off until now, including continuation of the Animal Shelter Project; expansion and renovation of the Weekes Branch Library; completion of the Emergency Operations Center on the second floor of the Utilities
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Center Building on Soto Road. In terms of gateways to the City, they are proposing to extend the Foothill Boulevard landscaping treatment from Grove to Apple Avenue. The City was successful in gaining federal funding from T-21 grants to be used for pavement rehab and improvements of signals and signals; budget continues to conservatively estimate that Measure "B" will not be reauthorized so the funding is limited. The City's sidewalks and public infrastructure, i.e., sewer and water, are also being addressed in this budget.

Commissioner Bennett asked more specifically about the Airport Master Plan and the enclosure of Sulphur Creek.: Public Works Deputy Director/Engineering Bauman explained that the property by the airport has for 30 years already been zoned for commercial and industrial development. The present application for development needs to enclose Sulphur Creek. He added that there will be a separate environmental process for each project identified in the Master Plan.

In response to Commissioner Fish's question about the process for obtaining design consultants, PW Deputy Director/Engineering Bauman explained that the process is largely dictated by State Law, and design consultants are selected on the basis of ability, not cost. Request For Proposals are sent to those who have submitted an interest in designing City projects. Staff evaluates and often conducts interviewing panels before negotiating with the best firm.

Public Hearing was opened and closed at 7:47 p.m.

Commissioner Bennett emphasized that most of the Commissioner questions were answered in the previous Work Session. She moved, seconded by Commissioner Bogue, to recommend passing the CIP on to Council and agreeing that it conforms to the General Plan.

Chairperson Williams added his appreciation for the way the document is coming together and how much easier it has become to read and appreciate.

Commissioner Halliday added that she was pleased to see Weekes project. She expressed concern regarding the possible over-capacity of sewer and water piping into the hills and said she hoped the City was not overdeveloping to serve greater development in the future. The present development into the hills has been established and it is important to continue to preserve the land up there. She would worry about the open space land being vulnerable in the future.

The motion passed 6:0:1, with Commissioner Zermefio absent.

3. Use Permit No. 99-160-04 and Variance No.99-180-03 and Referral of a Decision by the Director of Community and Economic Development/Planning Director to Refuse Endorsement of On-Sale of Alcoholic Beverages at a Bona Fide Restaurant and Off-Sale of Alcoholic Beverages at a Market. Endorsement is required by the State Department of Alcoholic Beverages Control - Jorge L. Gonzalez for El Tapatio Carniceria and Taqueria (Applicant), Dorothy Levin and Arthur Zemel Trustees et. al. (Owners) - Request off-sale of beer and wine at a 4,029-square-foot market, and a variance to sell off-sale beer and wine adjacent to another establishment that sells alcoholic beverages (500-foot separation required) and a request for the City to determine that public convenience or necessity would be served by selling on- and off-sales of alcoholic beverages in an area determined to be over-concentrated with such establishments. *The project location is 603 "A" Street, on the Southeast corner of "A"*

street and Grand Street in the Central City Zoning District- Commercial Subdistrict (CC-C).

Associate Planner Camire described the application and said the applicant asked to be able to serve beer and wine in his restaurant. The Alcoholic Beverage Commission said the area was impacted by beer and wine sales already. As a result, the City has to make a finding that the public necessity will be served by approval of this application. Police Department is concerned. Letters of opposition and contact from Burbank Neighborhood Task Force member Raelina Anderson were presented. Staff recommends denial of application and no findings for ON-Sale of Alcoholic Beverages;

Commissioner Halliday asked whether any of the previous owners at the location have had a liquor license and was informed that alcoholic beverages had been served when the former restaurant operated there some years ago. She then asked how the proposed Lucky's store will be allowed to gain permission to sell liquor.

Developmental Review Administrator Anderly responded that since Lucky's will be over 10,000 square feet, they are exempt from our local ordinance.

Associate City Attorney Borger explained that State law requires that if the ABC is going to issue a license in an area that is over-concentrated, they must have prior written consent by the City. The Director of Community and Economic Development has been given that authority by the City Council, but in this instance has opted not to do so. If the Planning Commission believes the City should agree to issuance of a license for on-site consumption, it would be making a recommendation to Council, who, in turn, would make the final decision.

PHO 8:02 p.m.

Jorge Gonzalez, 512 Smalley Avenue, applicant, went to City to get information on how to get permission to sell beer and wine at his establishment and said the ABC told him it was not an impacted area. He followed the procedures and set up an appointment with Lt. Hoover of HPD who indicated that the Police Department could see no reason to deny the application. He felt satisfied that the application was going to be accepted. He was told on April 5, by staff, he could sell beer and wine inside the restaurant..

Chairperson Williams commented that since he was applying for a new license, the Commission would be making a decision based on new information at the hearing and the report.

Commissioner Caveglia asked Associate Planner Camire to comment on his testimony.

Commissioner Halliday asked whether if the Commission was to find in favor of serving wine and beer in the restaurant but not off site would that be helpful to operate the establishment

Mr. Gonzalez indicated that they only have 4 tables in the restaurant.

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Keisha Tyler, 450 28th Street, #104, Oakland, said she was representing the Hayward Citizens for Responsible Liquor Outlets who encouraged the Commission to deny the variance, already the applicant is not in compliance with the Sign Ordinance.

Linda Pratt, Director of Compre, 22652 2nd Street, said they strongly don't think the finding of public necessity has been met. She indicated that there are problems already with those who sell alcohol in the area.

Jose Gonzalez, 512 Smalley Avenue, brother of the applicant asked for the beer license for take out since without it, their customers would go elsewhere. He indicated that they are trying to preserve the community by having the best business available to serve their customers.

Gerardo Munoz, 603 "A" Street, said he was a regular customer and the establishment is very clean.

Public Hearing Closed at 8:29 p.m.

Chairperson Williams asked for further clarification from Lt. Hoover of the Hayward Police Department.

Lt. Hoover indicated that this location is on the border of 2 police beats: "A" Street to Meekland and again "A" to "B" to Mission to "C" Streets those 2 areas; police incidents in the area are high; the "A" Street beat had over 450 calls in the last 6 months; the second area "A" to "C" excluding BART had over 700 calls, although not all were alcohol related. The ABC has determined by their standard the census tract is over-saturated. Based on this information, the Department was not recommending approval of the application.

Chairperson Williams said that if ABC and City give the applicant the encouragement to pursue it, it was hard to understand why denial was made.

Lt. Hoover added that there was some confusion on initial meeting in that he did not have the data he needed to discuss the application when they first met. He added that based on the surface information, he assumed there would probably not be a problem.

Commissioner Caveglia **moved**, seconded by Commissioner Halliday, **to deny the application and variance**. He added that the issue is clear, the law is clear. The vote is based on the public need. As a teacher, he needs to tell young people that drugs and alcohol are bad. It would be hypocrisy to approve this; if the applicant does a good job of food presentation and preparation, the customers will not only be there to buy beer.

Commissioner Fish added that many times, first meetings are off the top of the head. He would support the motion

Commissioner Bennett originally had questions regarding miscommunication with the City but it has been cleared up. Sometimes only what the applicant is giving us. She could find no compelling reasoning for the applicant.

Commissioner Bogue commented about the miscommunication but the ABC makes the decision regarding this location and meets a public necessity. He added that he could not support the idea;

Commissioner Caveglia assured the applicant that any other restaurants going into the area would get a "No" vote from him as well.

Chairperson Williams commented that the applicant should be able to rely on the authority of those who are in charge in the City. He added that it seems that if this facility had the license when you bought it the first thing would be to transfer it. He was not convinced that convenience to customers isn't compelling and might not be described as necessity. He said he would not support the motion.

The motion passed 5:1:1, with Commission Williams voting No; and Commissioner Zermeño absent.

ADDITIONAL MATTERS

3. Oral Report on Planning and Zoning Matters - None

4. Commissioners' Announcements, Referrals

Commissioner Fish asked again about the trucks on Mission Boulevard; he then asked whether staff could respond regarding a letter from John Kyle that was included in the mail packet.

Commissioner Bogue discussed a letter from HARD regarding a parcel on Industrial Boulevard declared surplus.

Commissioner Halliday reported that the artwork committee for the City garage on "B" and Watkins is in the process of receiving applications and has received one application; she also inquired regarding the rental of space in the commercial space at the "B" Street Marketplace

Commissioner Bennett requested staff to make copies of letters being sent on to Commission members so staff knows what is being sent on.

Commissioner Caveglia said grading has begun on the Bailey property and asked staff to investigate the amount of grading being done to verify that it is being done properly.

Chairperson Williams asked about the Lucky project and was told that an environmental firm is finishing up their evaluation of the project.

MINUTES

- April 22, 1999 - Approved

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ADJOURNMENT

The meeting was adjourned by Chairperson Williams at 8:53 P.M.

APPROVED:

Jerry Caveglia, Secretary
Planning Commission

ATTEST:

Edith Looney
Commission Secretary